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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,540	01/25/2000	Shlomo Kipnis	NDS-300.USA	7274

24628 7590 05/19/2005

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CHICAGO, IL 60606

EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/490,540

Applicant(s)

KIPNIS ET AL.

Examiner

Frantzy Poinvil

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15, 16, 18-25, 42, 46-51, 54 and 55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 16, 18-25, 42, 46-51, 54 and 55 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/14/03</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This application is in condition for allowance except for the following formal matters:

As per claim 1, line 2, "apparatus" should be changed to - -device- - since it is unclear as to how the portable element comprises an apparatus. On line 2, the Examiner suggest inserting the word - -defined- - before "distance" to avoid confusion between the "a defined distance" found on line 9. Also on line 9, the Examiner suggests replacing both occurrences of " a " with - - said - -. On line 20, the Examiner suggests replacing "a predetermined time" with - - said defined period of time- -. These changes are necessary to avoid lack of clarity problems.

The claimed limitations of "at least one defined type of transaction; at least one type of transaction meeting for a predefined criterion; and at least one authorized person authorized to use the portable element," cannot exist as such may not be likely to occur because of the wherein clause which is based on to authorize use of the portable element as a monotonically decreasing function of at least an elapsed time since a predetermined time and the distance indicated by the signal.

As per claim 42, line 9, "apparatus" should be changed to - -device- - since it is unclear as to how the portable device comprises an apparatus. On line 2, the Examiner suggest inserting the word - -defined- - before "distance" to avoid confusion between the "a defined distance" found on line 18. On line 18, the Examiner suggests replacing both occurrences of " a " with - - said - -. On line 29, the Examiner suggests replacing "a predetermined time" with - - said defined period of time- -. These changes are necessary to avoid lack of clarity problems.

The claimed limitations of “at least one defined type of transaction; at least one type of transaction meeting for a predefined criterion; and at least one authorized person authorized to use the portable device,” cannot exist as such may not be likely to occur because of the wherein clause which is based on to authorize use of the portable element as a monotonically decreasing function of at least an elapsed time since a predetermined time and the distance indicated by the signal.

Applicant is requested to correct these deficiencies.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.


2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP  
May 10, 2005

  
**FRANTZY POINVIL**  
**PRIMARY EXAMINER**  
*Au 3628*